

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

MIKE COTA,

Plaintiff

v.

MICHAEL MALONE, *et al.*,

Defendants

Case No. 3:21-cv-00329-MMD-CLB

**ORDER REQUIRING  
FINANCIAL CERTIFICATE**

**I. DISCUSSION**

On July 30, 2021, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983 and an application to proceed *in forma pauperis*. (ECF Nos. 1 & 1-1). Plaintiff has since filed an amended complaint and a second application to proceed *in forma pauperis*. (ECF Nos. 3 & 4.) Neither application to *proceed in forma pauperis* was returned with the required a financial certificate properly signed by both the inmate and prison official together with a copy of the inmate’s trust fund account statement for the previous six-month period. (*Id.*)

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

- (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3),
- (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form), and
- (3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period**.

Accordingly, the Court denies Plaintiff’s application to proceed *in forma pauperis*

(ECF No. 4) without prejudice because the application is incomplete. The Court will grant Plaintiff a **one-time extension** to file a fully complete application to proceed *in forma pauperis* containing all three of the required documents. Plaintiff will file a fully complete application to proceed *in forma pauperis* on or before **October 15, 2021**. Absent unusual circumstances, the Court will not grant any further extensions of time. If Plaintiff does not file a fully complete application to proceed *in forma pauperis* with all three required documents on or before **October 15, 2021**, this case will be subject to dismissal without prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to acquire all three of the documents needed to file a fully complete application to proceed *in forma pauperis* or pays the full \$402 filing fee.

A dismissal without prejudice means Plaintiff does not give up the right to refile the case with the Court, under a new case number, when Plaintiff has all three documents needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff may choose not to file an application to proceed *in forma pauperis* and instead pay the full filing fee of \$402 on or before **October 15, 2021** to proceed with this case.

The Court will retain Plaintiff's amended civil rights complaint (ECF No. 3) but the Court will not screen the complaint unless and until Plaintiff timely files a fully complete application to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

## **II. CONCLUSION**

For the foregoing reasons, IT IS ORDERED that Plaintiff's applications to proceed *in forma pauperis* (ECF Nos. 1 & 4) are denied without prejudice to file a new fully complete application to proceed *in forma pauperis* with all three documents.

IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well as the document entitled information and instructions for filing an *in forma pauperis* application.

IT IS FURTHER ORDERED that on or before **October 15, 2021**, Plaintiff will either pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52

1 administrative fee) or file with the Court:

2 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this  
3 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two  
4 signatures on page 3),

5 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail  
6 official (i.e. page 4 of this Court's approved form), and

7 (3) a copy of the **inmate's prison or jail trust fund account statement for the**  
8 **previous six-month period.**

9 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete  
10 application to proceed *in forma pauperis* with all three documents or pay the full \$402  
11 filing fee for a civil action on or before **October 15, 2021**, this case will be subject to  
12 dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case  
13 number, when Plaintiff has all three documents needed to file a complete application to  
14 proceed *in forma pauperis* or pays the the full \$402 filing fee.

15 IT IS FURTHER ORDERED that the Clerk of the Court will retain the amended  
16 complaint (ECF No. 3), but the Court will not screen the complaint at this time.

17 DATED: August 24, 2021

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19 UNITED STATES MAGISTRATE JUDGE  
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